1958

THE SENATE OF CANADA

PROCEEDINGS

OF THE

STANDING COMMITTEE ON

BANKING AND COMMERCE

To whom was referred the Bill (C-37), intituled:
An Act respecting the Taxation of Estates.

The Honourable SALTER A. HAYDEN, *Chairman*

No. 5

WEDNESDAY, AUGUST 27, 1958

WITNESSES:

Dr. A. K. Eaton, Assistant Deputy Minister, Department of Finance; Mr. D. S. Thorson, Solicitor, Department of Justice; Mr. W. I. Linton, Administrator, Succession Duties, Department of National Revenue.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
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OTTAWA, 1958

62331-4—1

BANKING AND COMMERCE

The Honourable Salter Adrian Hayden, *Chairman*

The Honourable Senators

*Aseltine	Gershaw	McLean
Baird	Golding	Monette
Beaubien	Gouin	Paterson
Bouffard	Haig	Pouliot
Brunt	Hardy	Power
Burchill	Hayden	Pratt
Campbell	Horner	Quinn
Connolly	Howard	Reid
(*Ottawa West*)	Howden	Robertson
Crerar	Hugessen	Roebuck
Croll	Isnor	Taylor (*Norfolk*)
Davies	Kinley	Turgeon
Dessureault	Lambert	Vaillancourt
Emerson	Leonard	Vien
Euler	*Macdonald (*Brantford*)	White
Farquhar	McDonald	Wilson
Farris	McKeen	Wood
		Woodrow—49.

(Quorum 9)

**ex officio* member.

ORDER OF REFERENCE

Extract from the Minutes of Proceedings of the Senate for Thursday, August 14th, 1958.

"The Senate resumed the debate on the motion of the Honourable Senator Thorvaldson, seconded by the Honourable Senator Emerson, for the Second reading of the Bill C-37, intituled: 'An Act respecting the Taxation of Estates.'

After further debate, and—

The question being put on the motion for the second reading of the Bill, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Thorvaldson moved, seconded by the Honourable Senator Pearson, that the Bill be referred to the Standing Committee on Banking and Commerce.

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

62331-4—1½

MINUTES OF PROCEEDINGS

WEDNESDAY, August 27th, 1958.

Pursuant to adjournment and notice the Standing Committee on Banking and Commerce met this day at 10.30 A.M.

Present: The Honourable Senators:—Hayden, *Chairman;* Aseltine, Baird, Brunt, Burchill, Connolly (*Ottawa-West*), Croll, Euler, Golding, Gouin, Haig, Isnor, Lambert, Leonard, Macdonald, McDonald, Pouliot, Power, Taylor (*Norfolk*), Turgeon, Vaillancourt, White and Woodrow—23.

In attendance: Mr. E. R. Hopkins, Law Clerk and Parliamentary Counsel, the Senate, and the official reporters of the Senate.

Bill C-37, An Act respecting the Taxation of Estates, was further considered.

The following witnesses were heard and questioned:—

Dr. A. K. Eaton, Assistant Deputy Minister, Department of Finance.

Mr. D. S. Thorson, Solicitor, Department of Justice.

Mr. W. I. Linton, Administrator, Succession Duties, Department of National Revenue.

On Motion of the Honourable Senator McDonald, seconded by the Honourable Senator Power, the following amendments were adopted:—

Page 5 line 31:—Strike out "and"

Page 5 line 34:—Strike out the period and substitute therefor:—"; and"

Page 5:—Immediately after paragraph (*d*) of subclause (2) of clause 3, add the following paragraph (*e*):—

"(*e*) notwithstanding anything in this section, the expression in paragraph (*a*) of subsection (1) property of which the deceased was, immediately prior to his death, competent to dispose does not include the share of the spouse of the deceased in any community of property that existed between the deceased and such spouse immediately prior to his death."

On Motion of the Honourable Senator Croll, seconded by the Honourable Senator Leonard, the following amendment was adopted:—

Page 28, Lines 1 and 2:—Strike out lines 1 and 2 and substitute therefor:—

"the value of the debt shall, unless it is established that at the time of the creation of the debt the deceased and such debtor were persons dealing with each other at arm's length, be determined for the purposes of this Part as though the amount thereof outstanding"

On Motion of the Honourable Senator Power, seconded by the Honourable Senator Croll, the following amendments were adopted:—

Page 35, lines 6 to 13: Strike out lines 6 to 13, both inclusive, and substitute therefor:—

"43. (1) Any amount payable as tax, interest or penalties under this Act by a person as the successor to any property passing on the death of a deceased shall, where the property to which that person is the successor includes any estate or interest in land situated in Canada, be and continue to be for as long as that amount or any part thereof remains unpaid a lien upon such estate or interest; and"

Page 35:—Immediately after subclause (1) of clause 43, add the following as subclause (2):—

"(2) Notwithstanding subsection (1), the consent of the Minister under section 47 to the transfer of any land or any estate or interest therein upon which a lien under subsection (1) exists shall be deemed to discharge such lien, and the Minister shall, upon application therefor made to him in any case where subsequent to the registration of any caution of lien as provided in subsection (1), any such lien is discharged, whether by payment in full of the amount thereof or in any other manner; issue to the person by whom the application is made a certificate of such discharge."

At 12.45 P.M. the Committee adjourned.

At 8.30 P.M. the Committee resumed.

Present: The Honourable Senators:—Hayden, *Chairman;* Aseltine, Baird, Brunt, Burchill, Connolly (*Ottawa West*), Croll, Euler, Golding, Haig, Leonard, Macdonald, McLean, Pouliot, Power, Taylor (*Norfolk*), Vaillancourt, White and Woodrow—19.

The consideration of Bill C-37, An Act respecting the Taxation of Estates, was resumed.

Dr. A. K. Eaton, Mr. D. S. Thornson and Mr. W. I. Linton, were further heard and questioned.

On Motion of the Honourable Senator Croll, seconded by the Honourable Senator Haig, the following amendment was adopted:—

Page 36, Line 22:—Strike out line 22 and substitute therefor:—

"to be made one or more copies thereof and shall upon request by the person from whom the original document was seized or by whom it was produced, in any case where a copy thereof has been made pursuant to this section, send a copy thereof to such person or, if no copy thereof has been made pursuant to this section, allow such person at any reasonable time to have access to the document so seized or produced, and a document"

The Honourable Senator Leonard moved that the Bill be amended as follows:

Page 26, line 21:—Strike out line 21 and substitute therefor:—

"made for or on account of income tax, except where a superannuation or pension benefit is taxable under the Income Tax Act."

The question being put on the said motion, the Committee divided as follows:—

YEAS:—10 NAYS:—7

So it was declared carried in the affirmative.

The Honourable Senator Croll moved that clause 9 of the Bill be carried.

The question being put on the said motion the Committee divided as follows:—

YEAS:—7 NAYS:—8

There being some confusion as to the intent of the motion the question was again put and the Committee then divided as follows:—

YEAS:—11 NAYS:—2

So it was declared carried in the affirmative.

The Honourable Senator Power, for the Honourable Senator Bouffard, moved that clause 9 of the Bill be amended by adding thereto the following as subclause 9:—

"(9) Notwithstanding anything in this Act, there may be deducted from the tax otherwise payable under this Part upon the aggregate taxable value of the property taxable on the death of a person, if the property passes to a surviving spouse or to children of the deceased, one half of such tax: provided that no such deduction shall be made in respect of the excess over $200,000.00 when the aggregate taxable value property is $200,000.00 or more."

The question being put on the said motion it was declared passed in the negative.

The Honourable Senator Power moved that the Bill be amended as follows:—

Page 9, line 27:—After the word "spouse" add "who inherits"

The Chairman ruled the motion out of order.

The Honourable Senator Power appealed the ruling of the Chairman.

The question being put on the ruling of the Chairman the said ruling was sustained.

The Honourable Senator Brunt moved that the Bill be amended by adding the following as Clause 33A:—

33A. Notwithstanding any other provision in this Act for determination of value of property passing on the death of a person the value of any property disposed of within a period of three months from the date of the death of a deceased for the purpose of providing for payment of estate taxes that may be or become payable under this Act in respect of such property, shall be the amount realized in such disposition and in the circumstances aforesaid that value shall be substituted for the value at which such property has been included in the aggregate net value of the property passing on the death of a deceased and the estate tax shall be revised accordingly.

The question being but on the said motion the committee divided as follows:—

YEAS:—9 NAYS:—9

So it was declared passed in the negative.

The question being put as to whether the Chairman should report the Bill, as amended, the Committee divided as follows:—

YEAS:—12 NAYS:—3

So it was RESOLVED to report the Bill as follows:—

1. *Page 5, line 31.* Strike out "and".
2. *Page 5, line 34.* Strike out the period and substitute therefor:—"; and".
3. *Page 5.* Immediately after paragraph (d) of subclause (2) of clause 3, add the following as paragraph (e):—

   "(e) notwithstanding anything in this section, the expression in paragraph (a) of subsection (1) 'property of which the deceased was, immediately prior to his death, competent to dispose' does not include the share of the spouse of the deceased in any community of property that existed between the deceased and such spouse immediately prior to his death."

4. *Page 26, line 21.* Strike out line 21 and substitute therefor:—"made for or on account of income tax, except where a superannuation or pension benefit is taxable under the *Income Tax Act.*"
5. *Page 28, lines 1 and 2.* Strike out lines 1 and 2 and substitute therefor:—"The value of the debt shall, unless it is established that at the time of the creation of the debt the deceased and such debtor were persons dealing with each other at arm's length, be determined for the purposes of this Part as though the amount thereof outstanding".
6. *Page 35, lines 6 to 13.* Strike out lines 6 to 13, both inclusive, and substitute therefor:—"43. (1) Any amount payable as tax, interest or penalties under this Act by a person as the successor to any property passing on the death of a deceased shall, where the property to which that person is the successor includes any estate or interest in land situated in Canada, be and continue to be for as long as that amount or any part thereof remains unpaid a lien upon such estate or interest; and".
7. *Page 35.* Immediately after subclause (1) of clause 43, add the following as subclause (2):—"(2) Notwithstanding subsection (1), the consent of the Minister under section 47 to the transfer of any land or any estate or interest therein upon which a lien under subsection (1) exists shall be deemed to discharge such lien, and the Minister shall, upon application therefor made to him in any case where subsequent to the registration of any caution of lien as provided in subsection (1), any such lien is discharged, whether by payment in full of the amount thereof or in any other manner, issue to the person by whom the application is made a certificate of such discharge."
8. *Page 36, line 22.*—Strike out line 22 and substitute therefor:—"to be made one or more copies thereof and shall, upon request by the person from whom the original document was seized or by whom it was produced, in any case where a copy thereof has been made pursuant to this section, send a copy thereof to such person or, if no copy thereof has been made pursuant to this section, allow such person at any reasonable time to have access to the document so seized or produced, and a document".

Your Committee recommend that the Minister take the necessary steps to ensure that the public generally, and all interested organizations (such as the Trust Companies Association of Canada and the Canadian Bar Association) are made acquainted, as far in advance as possible before proclamation of the Bill, with the meaning and intent of Clause 18 thereof.

At 10.30 p.m. the Committee adjourned to the call of the Chairman.

Attest.

James D. MacDonald.
Clerk of the Committee.

THE SENATE

STANDING COMMITTEE ON BANKING AND COMMERCE

EVIDENCE

WEDNESDAY, August 27, 1958.

The Standing Committee on Banking and Commerce, to which was referred Bill C-37, an act respecting the taxation of estates, met this day at 11.30 a.m.

Senator Salter A. Hayden in the Chair.

The CHAIRMAN: We have before us Bill C-37. The purpose of the meeting this morning is to consider what disposition the committee is going to make of the sections which we stood at the previous hearings.

Senator BRUNT: Give us the numbers of those sections.

Senator MCDONALD: These are the sections dealt with at the last meeting.

The CHAIRMAN: Yes, dealt with at the meeting with the minister.

They are: section 3(2)(a); section 7; section 9; section 13; section 15; section 16.

Senator MACDONALD: I wanted to deal with sections 14 (3) and 15.

Senator LEONARD: We may have to consider sections 14, 15 and 16 together.

The CHAIRMAN: Part of section 27, section 28 and section 29.

Senator BRUNT: We passed section 26?

The CHAIRMAN: No, there was an amendment proposed to section 26. A question was raised about an optional value date, and if anything is going to be done in that connection, the place to insert it is after section 33.

Senator BRUNT: Do we pass section 38?

The CHAIRMAN: Yes. We have to deal with section 43 together with section 47, having to do with liens and discharge of liens.

Senator MACDONALD: Section 45 (4) stood.

The CHAIRMAN: Yes. Those are the sections we have to deal with. I would suggest that we go directly into the more important sections . . .

Senator POWER: I have a note from Senator Bouffard who is unable to attend until this afternoon, in which he refers to the question of privileges respecting liens on immovable property.

The CHAIRMAN: We have noted section 7. We have dealt with the question of the income tax content in pensions and superannuations; that would affect section 26 of the bill which, if I may express my own opinion, seems to be the most important section, judging by the interest shown by members of the committee. Therefore, I suggest we deal with section 26 first.

Senator BRUNT: Perhaps that should be left to the last, when some of the senators now absent will be present.

The CHAIRMAN: Senator Bouffard is not here, but the matter is in Senator Power's hands.

Senator POWER: I suggest we deal with those sections which we can get rid of quickly. I understood the minister to agree to ask his officials to draft an amendment dealing with proposals made by the amendment of Senator Monette, seconded by Senator Bouffard.

The CHAIRMAN: That has to do with section 3(2)(a).

Senator POWER: I understood there was substantial agreement there.

The CHAIRMAN: Yes, on community of property. Mr. Thorson, would you speak to that?

Mr. THORSON: I have a proposed amendment, which perhaps should be read into the official record. But I think Dr. Eaton has something to say first.

Dr. EATON: Mr. Chairman, may I say I am acting as an emissary, or perhaps I should say a messenger boy. Following the discussion with the minister the other evening, at which some five points were raised, he has drafted certain amendments, and Mr. Thorson has them to be placed before the committee for consideration.

The CHAIRMAN: Tell us what the points are.

Dr. EATON: I am merely passing them to you. Mr. Thorson can go into the amendments one by one.

The CHAIRMAN: Will you tell us what the amendments are, Mr. Thorson?

Mr. THORSON: The first proposed amendment is in clarification of a point raised by Senator Monette dealing with community of property. That would be an amendment of Section 3, subsection 2.

The CHAIRMAN: The first amendment is in the following language:

"That Bill C-37, an Act respecting the Taxation of Estates, be amended by striking out the word 'and' at the end of line 31 on page 5 thereof, by adding the word 'and' at the end of line 34 on page 5 thereof and by adding thereto, immediately after line 34 on page 5 thereof, the following:

> '(*e*) notwithstanding anything in this section, the expression in paragraph (*a*) of subsection (1) "property of which the deceased was, immediately prior to his death, competent to dispose" does not include the share of the spouse of the 'deceased in any community of property that existed between the deceased and such spouse immediately prior to his death.'"

Senator POWER: How does that meet with the amendment proposed by Senator Monette?

Some Hon. SENATORS: Carried.

The CHAIRMAN: Senator McDonald moved, seconded by Senator Power. Those in favour? Contrary, if any? Carried.

Mr. THORSON: The second proposed amendment is one relating to clause 29.

The CHAIRMAN: On page 27, at the bottom of the page. This is the section which deals with a situation where a deceased dies having money owed to him by a controlled company of which he and members of his family may have control, and it may be a time debt. In these circumstances it is valued as though it were immediately payable. Without reading it, I imagine it adds the "arm's length" provision to section 29.

The amendment reads:

"That Bill C-37, An Act respecting the Taxation of Estates, be amended by striking out lines 1 and 2 on page 28 thereof and substituting the following:

> 'the value of the debt shall, unless it is established that at the time of the creation of the debt the deceased and such debtor were persons dealing with each other at arm's length, be determined for the purposes of this Part as though the amount thereof outstanding.'"

In other words it is adding the arm's length provision, as a matter of the onus being on the estate to establish that it was a bona fide debt and the period of time was a bona fide period. I assume there the influencing factor would, if it carried the going rate of interest. Is that agreeable?

Some Hon. SENATORS: Carried.

The CHAIRMAN: It is settling for a very little bit. What is the view of the committee?

Senator BRUNT: Who were the people who wanted this particular amendment?

The CHAIRMAN: If you remember I thought that this control company provision in the bill was a horrible thing. I thought possibly, with all due respect to you, Mr. Thorson, that the person who drafted the control company provisions had been scared by a control company once upon a time and hated them all.

Senator CROLL: I will move the adoption of this amendment.

The CHAIRMAN: It is at least giving an opportunity in connection with a time and date in these circumstances for the estate to attempt to establish that it was bona fide, and therefore it should not be valued as though it were immediately payable.

Senator LEONARD: I second the motion.

The CHAIRMAN: It has been moved by Senator Croll, seconded by Senator Leonard, that this amendment be adopted. Those in favour? Contrary?

Amendment agreed to.

The CHAIRMAN: Would you deal with the next one, Mr. Thorson?

Mr. THORSON: It is an amendment to clause 43. This is the clause that imposes the lien on the interest of a successor for the amount of unpaid taxes. The proposed amendment really has two parts. First of all, there is a clarification of what is presently in the bill to meet the point raised by Senator Bouffard. In this connection we considered a number of alternatives including a provision which would stipulate that the lien was subject to existing charges and encumbrances. However, rather than do that, in view of the difficulties of determining priorities under the various provincial statutes, we thought it more desirable and less likely to produce confusion if a clarification was made in the section as to the nature of the lien itself.

The first part, then, of the amendment stipulates that the lien attaches only to the estate or interest of the successor and not to the whole of the land where the successor merely has an interest in the land. It is then clear, I think, that what the lien attaches to is merely the interest of the successor at the time the lien is created; that is to say, where there is any existing encumbrance on the title the lien will rank after that encumbrance.

Senator MCDONALD: When you are speaking of a lien or encumbrance do you mean something like a first mortgage?

Mr. THORSON: Yes.

Senator POWER: That meets the objection raised by Senator Bouffard that in the province of Quebec this lien is a privilege and always takes priority over all other encumbrances?

The CHAIRMAN: That's right.

Mr. THORSON: Yes. We have made a study of it and I think that is a correct statement of the law, although there is some doubt about it, as I understand, under the provisions of article 2009 of the Civil Code.

Senator MACDONALD: Will your amendment then read that the lien will be subsequent to prior encumbrances?

Mr. THORSON: That is correct, sir.

The CHAIRMAN: Yes.

Mr. THORSON: The second branch of the amendment provides for an additional subsection to section 43 dealing with discharges of liens. This was a problem raised by a number of senators. Perhaps, Mr. Chairman, you would like me to read the provision.

The CHAIRMAN: I will read this now:

"That Bill C-37, An Act respecting the Taxation of Estates, be amended

(*a*) by striking out lines 6 to 13 on page 35 thereof and substituting the following:

'43. (1) Any amount payable as tax, interest or penalties under this Act by a person as the successor to any property passing on the death of a deceased shall, where the property to which that person is the successor includes any estate or interest in land situated in Canada, be and continue to be for as long as that amount or any part thereof remains unpaid a lien upon such estate or interest'; and

(*b*) by adding thereto, immediately after line 20 on page 35 thereof, the following:

Discharge of lien.

'(2) Notwithstanding subsection (1), the consent of the Minister under section 47 to the transfer of any land or any estate or interest therein upon which a lien under subsection (1) exists shall be deemed to discharge such lien, and the Minister shall, upon application therefor made to him in any case where subsequent to the registration of any caution of lien as provided in subsection (1), any such lien is discharged, whether by payment in full of the amount thereof or in any other manner, issue to the person by whom the application is made a certificate of such discharge.'"

So it provides for the status of such a lien.

Senator MACDONALD: Provides for the establishment of such a lien. How is it established?

The CHAIRMAN: It shall be a lien upon such estate or a lien on such land as was present at that time.

Senator MACDONALD: Does the lien have to be filed?

The CHAIRMAN: No, the statute only says the Minister may.

Mr. THORSON: There is, however, provision for registration of the lien. It is not mandatory, and it is not necessary to the creation of the lien. The lien itself arises by virtue of the statute itself.

Senator MACDONALD: So that if this land is subject to the lien, it is subject to the lien whether the lien is filed or not?

Mr. THORSON: That is correct, but it is the interest of the successor upon which the lien attaches.

Senator MACDONALD: So that if the successor is entitled to the land a purchaser does not know if it is free from the lien unless he makes inquiries from the department?

Mr. THORSON: That is correct, sir, unless the lien has been registered.

Senator MACDONALD: But if you do not register?

Mr. THORSON: Not necessarily, no.

Senator MACDONALD: Would it not be the practice of the department to register?

Mr. THORSON: No, sir, I don't believe it is.

The CHAIRMAN: I would think the intending purchaser would require production of consent to the registration of the property.

Mr. THORSON: That extinguishes the lien, and the second branch of subsection 2 goes on to provide that the Minister must, where there has been registration of the lien, issue a certificate of discharge where the lien has been discharged, whether by the giving of the consent or by payment of the amount of the lien then claimed.

Senator BRUNT: I am primarily interested in protecting a purchaser. I am not worried about registered liens. Let there be no misunderstanding. The giving of the consent, that extinguishes any right the Minister has to file the lien against the property?

Senator WHITE: Would it not be a good thing to word it accordingly, with regard to consent referring to anything affecting land?

Mr. LINTON: That is the intention, Mr. Chairman, in the consent.

The CHAIRMAN: You will notice the language of the proposed amendment is that the consent shall be deemed to discharge such lien. So they will have to work in appropriate language to do that very thing.

Mr. THORSON: It may not be possible in all cases to have exact language because of provincial differences in regard to the registration of discharges.

Senator MACDONALD: Coming down to a definite case: under this bill the tax is chargeable against the whole estate. Suppose that in the estate there is a piece of property which, under the will, goes to a successor and that successor wants to sell that piece of property before the tax on the whole estate is paid. Is there any provision for obtaining a consent to the sale of that particular piece of property?

Mr. THORSON: Oh yes, a consent to transfer may be given in circumstances where the whole tax has not been paid. That is dealt with in section 47.

Senator MACDONALD: That is provided for under the Ontario Succession Duty Act and under the Dominion Act you can sell it any time?

Senator BRUNT: Oh yes, because there is no lien under the present act. I am not referring to this bill, but under the present act there is no lien.

Senator GOUIN: Mr. Chairman, in the province of Quebec we always have a certificate from the Provincial Collector of Revenue which I understand is not given until the whole matter has been settled with the federal authority. But what I want to try to bring out here is that all our liens in the province of Quebec are registered, and there is no such thing as what I would call an occult privilege or lien. With that lien on the property in order to sell it we have to communicate with the department in Ottawa.

Mr. THORSON: There is no doubt the lien exists, whether it is registered or not. In the province of Quebec that would apply also. It is a lien by statute and would constitute a charge on the land to the extent indicated.

Senator MACDONALD: It is a great improvement to that section.

Motion agreed to.

The CHAIRMAN: We will now take up the next number.

Mr. THORSON: The next amendment is to clause 45, it relates to subsection 4 of section 45, copies of records. It provides for the giving of a copy to a person requesting it where copies have in fact been made.

The CHAIRMAN: The amendment reads as follows:

That Bill C-37, an act respecting the taxation of estates, be amended by striking out line 22 on page 36 thereof and substituting the following:

> "to be made one or more copies thereof and shall, upon request by the person from whom the original document was seized or by whom it was produced, in any case where a copy thereof has been made pursuant to this section, send a copy thereof to such person, and a document."

This does what we suggested to the Minister the section should do.

Senator WHITE: Suppose that you were to seize the office records of a doctor. Would copies of all his accounts be made and handed back to him under this amendment?

Mr. THORSON: Not necessarily. It does not follow that copies would be made of every document seized.

Senator WHITE: But suppose that you did seize two big ledgers of his accounts. Would the doctor, under this amendment, be entitled to have copies made of all his accounts?

Mr. THORSON: Only if copies were made by the department. This provides that where copies have been made the department must send a copy to the taxpayer.

Senator WHITE: So there will still be the loophole in a case where a doctor's books are seized and no copies have been made by the department.

Senator CROLL: He can make copies for himself.

Senator BRUNT: He won't be around in any event.

The CHAIRMAN: There is nothing in this section that provides that the records in charge of the department will be made available to the person whose records they are.

Senator WHITE: Under section 45 (*b*), the documents are kept until the prosecution, and the doctor would have no access to them.

Mr. THORSON: There are a great many documents subject to seizure where it would not be necessary to make copies. I am thinking of cases where a seizure takes place, the documents are examined, and there is a certain amount of sorting out to be done; some of the documents are found not to be material to the case in point, and they are returned.

The CHAIRMAN: But there should be some provision for access to the documents where copies are not furnished.

Senator WHITE: Under section 45 (*b*), where you have the right to seize them, you also have the right to retain them until they are produced in court. There is no chance there for the doctor to see his accounts.

The CHAIRMAN: There should be access.

Senator BRUNT: Is this provision similar to that in the income tax with respect to seizure of documents?

Mr. THORSON: As it existed previously, it is similar; this goes beyond the provision in the Income Tax Act, in this particular.

The CHAIRMAN: Under income tax, there are provisions which we do not have here, with respect to search warrants. I think the person whose records have been seized is entitled to see them.

Senator BRUNT: There never has been any trouble about inspecting documents that have been seized; there has been 100 per cent co-operation.

Mr. THORSON: May I clarify that last statement? I may have confused you when I said this provision went beyond the provision in the Income Tax Act. The section does not go beyond that, except to the extent that this amendment provides for the sending of copies.

The CHAIRMAN: The person who has had his documents seized should have a right to inspect them, if he is not getting copies.

Senator BRUNT: Or the right to make copies.

The CHAIRMAN: To make copies if he wishes.

Senator HAIG: Why not add those words to the section?

Mr. THORSON: I understand there are practical objections to it. Very often the person concerned is dead; the documents frequently are those of the deceased himself.

The CHAIRMAN: But they may be accounting records, in the hands of an accountant.

Mr. LINTON: In most cases these are records of the deceased person, so that it would not interfere as much with the collection of accounts and so on as it would in the Income Tax Act.

The CHAIRMAN: The question might arise in the administration of the estate.

Mr. LINTON: It might. We would anticipate this section being used very seldom. We have not had it in the Succession Duty Act up to the present time, and in the past 17 years I don't suppose we have had six cases where we would have liked to have had it.

Senator EULER: Then why put it in?

Mr. LINTON: It is for those six cases, where we really need the right to seize records, where we are getting no co-operation or help and everything is being done to defeat the Revenue.

The CHAIRMAN: What is the objection to providing for access to the records and the making of copies?

Mr. LINTON: The making of copies might involve all our staff for months.

The CHAIRMAN: You could send a man in with a photostating machine.

Mr. LINTON: But the documents might be very voluminous.

The CHAIRMAN: Even so?

Senator BRUNT: The representative of the estate should have the right to inspect the documents and make copies.

Mr. THORSON: There is nothing in the law that would prevent the executor or other representative from making copies.

Senator EULER: As a matter of practice, would you let him do it?

Mr. LINTON: Generally speaking, I would say so.

Senator BRUNT: Then why not add a clause, so that there would be no doubt that a representative of the estate could inspect the records and make copies?

Mr. THORSON: I would think it would follow from the whole structure of the bill that, in as much as there is no prohibition, the department would not deny access.

Senator HAIG: I know of an instance in my city where there are two partners in a business, but their individual investments are kept separate. If a seizure was made of the books it would tie up the business. Somebody might come in and deny the accuracy of a statement. The department might say they would let the partnership have access to the documents when the investigation was completed, and until that time they could not let the

documents out. That would be a perfectly good reason. I think that we should have the right to examine. I think that should be added to the section. It is only fair. I know cases in my city where a good many people would be affected, and very badly.

Senator CROLL: Let it stand for a while.

Senator BRUNT: Let it stand. We can take it up with the minister, and maybe come up with an amendment.

The CHAIRMAN: Amendment stands.

(The Departmental officials then withdrew).

The CHAIRMAN: We come now to the section on which I opened the meeting of the committee, that is section 26, on the question of the income tax contained in the pension. I said in opening that there had been a great deal of discussion and there seemed to be something approaching unanimity in views on that section. It struck me as being one of the most important ones left. Would the committee care to deal with that section now?

Senator LEONARD: As I moved an amendment to this section perhaps I might speak to it.

The CHAIRMAN: Yes.

Senator LEONARD: I think that the principle is still a sound one, that we should not tax the superannuation for pension benefit on the amount that is included in the valuation of it that would represent a tax liability still to be paid. In the amendment I suggested to this committee and to the minister I had drafted a rather broad provision that would enable the minister to prescribe by regulation for the estimation of the allowance of such tax. In the evidence given before us I think that the income tax officials themselves, by inference, admitted that this double line, or putting it another way, the tax on the liability, does exist, because Mr. Smith of the Finance Department gave two cases, for example, which showed that there was an estate tax on an annuity, on a pension benefit, and that there also would be then an income tax still to be paid on that benefit. But their difficulty seems to be to establish any table or to establish any rule whereby the allowance can be made for that tax liability, because it involves not only the age of the annuitant but it also involves the amount of tax that that annuitant may have to pay in the future on his or her income. Consequently I am going to suggest a different amendment than the one that I suggested before, because it was dependent upon the minister prescribing some sort of regulation or estimation; and I suggest that we add, after the words at the end of section 26, which now reads: "for the purposes of this Part, in determining the value of any property no allowance or deduction shall be made for or on account of income tax", these words: "except where a superannuation or pension benefit is taxable under the Income Tax Act." The effect of that is that you are thrown back on the fair market valuation of such a pension, benefit or superannuation. We are back in the position where we were before this particular section was put in the act. That particular section was put in, I think properly, to cover other cases where it would be quite proper that no allowance or deduction should be made for or on account of income tax; but that gathered up this particular type of case, which is going to be of increasing importance in the future, because the superannuation and pension plans are growing, a great many more people are becoming dependent on them, and because also they have come to a point where they represent a much more substantial portion of a person's estate for capital value purposes than they used to do. So, if we adopt the amendment I have mentioned that simply puts the value of the superannuation or pension to that which is taxable in the Income Tax Act, and these are words in the Income Tax Act

that are used to describe this particular type of benefit, a fair market valuation, and that is within the scope of any person valuing an annuity, to say this particular annuity is not worth the full amount it otherwise would be because there is the tax liability.

Senator BRUNT: Would you repeat that amendment?

Senator LEONARD: To add these words: "except where a superannuation or pension benefit is taxable under the Income Tax Act". In order to put it into discussion I would be glad to move that amendment.

The CHAIRMAN: It is open for discussion. The committee understand the effect of that? The effect of the amendment proposed is that in valuing a superannuation benefit or pension benefit you must value it on the basis of fair market value, and in appraising fair market value one does look at liabilities as well as benefits, and therefore there would be some reflection of the income tax content in establishing a lower fair market value than you otherwise would have.

Senator MACDONALD (*Brantford*): Would this affect the revenue to any extent?

Senator ASELTINE: It is a question of balance of ways and means.

Senator CROLL: Severely.

Senator LEONARD: I would say, not severely, myself.

Senator MACDONALD (*Brantford*): I am in favour of the principle, but I hesitate to make an amendment to a bill which affects the tax structure which has been established by the Minister of Finance. Included in that, of course, is the question of the balance of ways and means, as has been mentioned. If it were a minor reduction I think we would be on sound ground to make a-minor-change. But if this does go to the root of the financial set-up I think you should give it careful consideration.

The CHAIRMAN: I find it difficult to accept the definition that my duty as a senator is to be limited to making minor changes in a bill that comes before us. I say this because a bill may require a substantial change.

Senator MACDONALD: I am talking about a change which affects the receipt by the Government of a substantial sum of money. I think this should be looked at very carefully by the Senate. I know it has been said that the Senate can reduce taxation but at the same time we cannot disturb the balance of ways and means.

The CHAIRMAN: We can. We have the power to.

Senator MACDONALD: I don't think we should.

Senator GOUIN: We have the power but is it advisable?

The CHAIRMAN: The point is we should not do things that unduly disturb the balance of ways and means.

Senator POULIOT: I would like very much to ask a question I have asked with respect to other legislation. What is the revenue that the Government expects from this bill? Is there anybody from the department here who can give us an idea on that?

The CHAIRMAN: We were given a figure the other day that when this bill becomes law, in the terms of the bill, the revenues from taxation would be in the order of $7 million a year less than they are now.

Senator POULIOT: And if the changes suggested by some of our colleagues are made, what would be the return then?

The CHAIRMAN: We have no information.

Senator POULIOT: It was not calculated?

The CHAIRMAN: No.

Senator HAIG: Perhaps I don't understand all this, so I would like to ask a question. These pensions you refer to are pensions that have been built up by the deceased in his lifetime on which he did not have to pay income tax?

The CHAIRMAN: That's right.

Senator HAIG: Then that pension is payable at so much a year maybe to the deceased's widow as long as she should live. When the pensioner dies the pension value is estimated on the amount of the pension and on the widow's life expectancy. In the meantime she pays the regular income tax on the amount she gets?

The CHAIRMAN: That's right.

Senator HAIG: The reduction you are proposing to make is—

Hon. SENATORS: No.

The CHAIRMAN: No.

Senator HAIG: Wait a minute. You are proposing that that money must not be taxed against the estate only as to the capital value and not the increased value?

The CHAIRMAN: No.

Senator LEONARD: There are two types of annuities. I can buy a Government annuity and leave it to my wife. I have paid income tax on that money that came in during my lifetime. Say it is $1,200 a year. That is valued at my death at a certain amount of money. There is another type—

Senator HAIG: Stop there. What happens there? Your amendment doesn't affect that at all, does it?

The CHAIRMAN: No.

Senator HAIG: All right, go on.

Senator LEONARD: The other one, of exactly the same amount, I did not pay any tax on but my widow is going to after I die. But they value that annuity, which is subject to this tax, at exactly the same amount as the one that is not subject to tax. If I paid the tax on this other one I would have had that much less money. In other words, I would have been taxed on that much less money, so the tax paid by my wife is only a deferred liability.

Senator ASELTINE: Why shouldn't it be paid?

Senator LEONARD: It should be paid but not included in the valuation for estate tax.

Senator BRUNT: You should take the income tax payable off the capital value of the annuity.

Senator LEONARD: That is right. That annuity is not worth as much as the other one.

Senator HAIG: Why shouldn't they both be the same? You either pay it at one time or another. The man can make a choice.

Senator CONNOLLY (*Ottawa West*): When the annuity or pension is paid to the widow as she gets it year by year it will be subject to income tax.

Senator HAIG: On the amount of itself. That is income she gets. With respect to both illustrations that Senator Leonard gave me, income tax is paid in both cases. In one case the deceased person had already paid income tax on the money during his lifetime.

Senator BRUNT: That's right.

Senator HAIG: And with respect to the other one there was no income tax paid during his lifetime.

Senator BRUNT: But the one who paid income tax during his life has that much less money in his estate. It boils down simply to that.

The CHAIRMAN: Is there any other discussion?

Senator LEONARD: With respect to one he has paid the debt, and with repsect to the other it has been left to the wife to pay.

Senator MACDONALD: If I may continue, what troubles me is that according to the British North America Act, if I remember the wording correctly, any bill appropriating any part of public revenue or imposing any taxes or impost must originate in the House of Commons. Therefore we cannot impose taxation.

The CHAIRMAN: This amendment does not impose taxation.

Senator MACDONALD: No, but what have we done? The Government proposes certain expenditures. The Supply Bill proposes certain expenditures, and the Government has to raise sufficient money to meet those expenditures.

Senator POWER: Or there may be a deficit.

Senator MACDONALD: Well, if there is a deficit it has to raise the money. Now, at the end of the session we will approve that supply and therefore we have to approve all the amount of money to be raised to meet the supply. If we amend a bill which will reduce taxes it will reduce the amount of money which the Government will receive. Therefore, in order to balance the books, we will have to require the Government to increase taxation in some other respect in order to bring about the balance.

Senator EULER: It won't balance anyway.

Senator BRUNT: I understand there is going to be an amendment whereby the Government would collect more in certain circumstances.

Senator MACDONALD: If we make an amendment, what bothers me is that we may indirectly be taxing, and under the B.N.A. Act we are not empowered to tax.

Senator HAIG: Correct.

Senator MACDONALD: Under the B.N.A. Act we are not empowered to tax.

The CHAIRMAN: My friend is suggesting that if we reduce, for instance, the number of allowable deductions, we are taxing.

Senator MACDONALD: Which means that the Government will have to increase taxes somewhere.

The CHAIRMAN: If you reduce the amount of deductions you are making subject to tax a larger volume of the estate, but certainly that is not increasing tax as such. We are not dealing with the rates at all.

Senator POULIOT: I submit, Mr. Chairman, that although the Senate has not the right to impose taxation, it has the right to reduce taxation. It is for the Government to look after their business to try to make both ends meet. That is not for us to do, that is the business of the Government.

Senator MACDONALD: But when the Government has looked after its own business and made both ends meet, they submit that proposal to Parliament, including the Senate, and we have to deal with the passing of it?

Senator POULIOT: Senator Macdonald, we cannot impose any taxation, but we can make suggestions to the Government. We can suggest to them to tax the big bears and bulls on the stock market, and it would be a very popular move. We cannot pass legislation to that effect, but we can make that suggestion, and I would make it at the proper place.

Senator MACDONALD: I will agree that we could suggest to the Government they increase the tax on these people you refer to, but that is a suggestion; but it is not within the power of the Senate under the constitution to do so.

Senator POULIOT: I agree with you on that, but my contention is that the Senate has the right to decrease any taxation bill that comes from the Commons.

The CHAIRMAN: May I refer you to the report of a special committee of the Senate, in 1918, of which the Honourable W. B. Ross was chairman, on that very subject, and I think this is still a sound position:

> That the Senate of Canada has and always had since it was created, the powers to amend bills originating in the Commons appropriating any part of the revenue or imposing a tax by reducing the amounts therein, but has not the right to increase the same without the consent of the Crown.

Senator POULIOT: Exactly.

Senator MACDONALD: I think we all agree on that, but have to go a little farther.

Senator POULIOT: Oh, no.

Senator MACDONALD: If we stop there and reduce taxation to such an extent that the balance of ways and means is disturbed, I think we are going beyond our powers.

Senator POULIOT: No, Senator Macdonald, because we are not the Government, we are one of the houses of Parliament, and that is very different from the powers of the Government; it is not the same thing at all.

Senator LEONARD: Mr. Chairman, if I might say with respect, I think we are all agreed that we should not disturb unduly the ways and means. I agree with the honourable leader in that respect. But the Minister did not when he was before us, nor did the officials, raise any question other than it was a matter of difficult calculation. From my own general knowledge I would say that the amount involved here in gross could not be a substantial amount, but in the individual case it may be something of quite importance to some particular beneficiary. The Minister and the officials pointed out, though, that it was a putative calculation, and the Minister said, "How are you going to determine it?", and he found it difficult to do that. One must admit it is difficult. I do not think you can set up a rule of thumb, or if you did it would only be a rule of thumb. But the principle is there, and I think the principle is a proper one and is generally accepted. It is only a question whether we should not now adopt that principle and it can be worked out in the individual case, although it may involve some greater application to the problem that it has given us up till now, because they never had to do it until now.

Senator ASELTINE: Your amendment does not suggest any way in which that could be worked out.

Senator LEONARD: No, but if you took the two particular cases Mr. Smith gave us in his evidence the other day it would not be a difficult matter for anyone either to value those pensions or to set an allowance for the proper deduction for the value of them.

Senator ASELTINE: I do not think we should deal with that amendment finally without taking it up with the Minister again.

Senator MACDONALD: In connection with the report which was made by the Honourable W. B. Ross, I also recall that in that report he said—and I refer to this because the Government proposes certain expenditures, which are set forth in the supply bill, and we should be consistent in providing the money for that supply—that a supply bill should be passed as a matter of course by the Senate in almost all conceivable circumstances if it contains nothing but supply. So I come back to what I previously said, that doubtless we shall approve of the expenditures which the Government proposes. I cannot see how we can approve of those proposals and then tell the Government we are not going to give them the money to pay for it.

The CHAIRMAN: As I see it, we are not telling the Government we are not giving them the money. This statute will produce the revenues, if people are accommodating enough to die.

Senator EULER: The Senate has to approve a fall supply. Well, we cannot increase taxes, that is for certain, and if we cannot increase taxes what in the world is the use of a supply bill coming to the Senate at all?

The CHAIRMAN: No purpose at all.

Senator MACDONALD: I do not think that answers the question.

Senator HAIG: I think this is a pretty good bill, and I do not like to see the bill wrecked on apparently a point upon which some of us are disputing it. I am one who does not think this is a fair deal, where one pays the taxes and gets so much, and the other doesn't, and we want to let the widow off.

The CHAIRMAN: No, we are not letting the widow off.

Senator HAIG: We want to let the widow off.

Senator BRUNT: Are you referring to income tax or estate tax?

Senator HAIG: When she comes to pay she has to pay a certain amount of these back taxes.

Senator BRUNT: Well, are you referring to income tax or estate tax?

Senator HAIG: Well, she pays the estate tax, and I am against that, because in the other case the fellow paid for it direct. Now in the case where two policies are taken out, in the one case a man puts the income from it into an annuity or pension. On that one there is no income tax paid by the widow, only on the money she gets personally. In the other case the fellow didn't pay any income tax originally, and put it into the investment, and then the widow has to pay income tax or a part of it and then also pay tax on it. Now, you are trying to cut out that succession duty tax against that second widow. That man should have paid it on the first widow. That is the issue. You are not letting a widow off, that is not really the question. In the case of the one widow, the man was smart and he didn't pay any taxes on her, he put it all in the amount, because at the end of the road he knew that when she got the pension she wouldn't have any tax to pay. But the second woman got the money free. Now, I think that is unfair. Now, if the Government gets that legislation, I would not want to know what the Government would do, but I know what I would do if I were the Government, I would say, "Let the Senate kill the bill if you want to, but we won't accept your bill."

Senator CROLL: I am satisfied, after hearing everything that has been said, that we have authority to reduce taxation. There is not the slightest doubt about that in my mind at all.

Senator HAIG: I don't question that.

Senator CROLL: Now, this section is not new, it has been in the act since 1952. I think it is an unfair section and discriminatory, and I think all the points have been made. That is all I am going to say on that subject. On the other hand I am not prepared to support the amendment that has just been proposed for entirely different reasons. At page 171 of the evidence, when Mr. Fleming was here, he did not say he rejected the idea of the proposed amendment, he used the term, he "recoils". That is the term he used. He was opposed to our doing anything on it because they had given consideration to it, they knew it had some unfairness to it but on the other hand there was in his mind the balance of ways and means, and we have to keep that in our mind too, but he had set his mind against it. But what are we doing here? Here we have a new act, a good act, and in my opinion an improvement over the old act, and in attempting to correct all of the

omissions we try to make a perfect act out of it. We did not make a perfect act out of the Income Tax Act, we have been at it, I think, for years and years and years, and amendments come up before us every year. There will be times when we will have amendments to this. This is the beginning of an act, we cannot correct it all. I do not know what it can mean. Pensions in the last 15 to 25 years have become pretty common amongst working people, the normal pension of $900 or whatever it is. They have an element of taxation in them, it is a small element of taxation. Pensions of considerable size have always been the style amongst people of greater means and in more recent years they have become more than the style, it has been a method of paying top executives for continuing in their positions with corporations, that is one of the methods of paying their salaries. These things have become pretty much in use.

The CHAIRMAN: Senator Croll I do not want to interrupt you but you must realize when you are talking about large pensions the problem ceases to be important when the pensions go above $1,500 a year contributed by the person. After that it gets into a category of things that are not touched by this amendment at all.

Senator CROLL: You are quite right there. But let me say this. We asked Mr. Fleming what this would possibly mean in that category and he was not able to say, he did not know. Give him a little time to get some experience in this line, give his department an opportunity to come back here on another occasion and say to us this is what it means in dollars and cents, and then we will know. At the moment it is a stab in the dark. If you were to ask me what this bill would bring I would give you a curbstone opinion. He said it would lose $7 million and my own guess is that it would make $7 million. It is just a guess, though. All I have is a hunch. We are attempting to deal now with something about which we do not know everything that is to be known about it. We know only one side of the case. I think it is a mistake to do it at this time. If we waited six years to correct it we can wait seven years to correct it. We have had a discussion on it and we know some of the arguments on both sides. The department knows our concern and our interest in this.

Senator THORVALDSON: I think, Mr. Chairman, there is one point about this that should not be forgotten. I never felt that there was a really important discussion on this by the officials in regard to this at all. The reason the Minister said he recoiled from accepting our amendment is that he says it prefers one type of property to another and that is why he recoiled against it. That is his decision and I believe the decision of all the officials, namely, that it prefers one type of property, that is, this type of pensions whereas there are other types of pensions prejudiced as a result. That is the real objection of the department to this amendment. For that reason I do not think that the Government will accept any interference. And then of course this section is practically identical word for word with section 33(2) which was added to the act in 195—.

Senator CROLL: Mr. Chairman, may I make this suggestion. You cannot complete this bill this morning because we are waiting on another amendment. Allow it to stand until our next meeting whenever you call it.

The CHAIRMAN: I agree with that. In the meantime we will stand this item. And at this hour there is no use going on with any other item. There is an amendment to be proposed to section 7, and Senator Leonard has amendments to propose to sections 14, 15 and 16, and Senator Brunt may have something to say in relation to section 9.

Senator WHITE: What will be the amendment to section 7?

Senator POWER: This is an amendment that affects the principle of the estate tax as against the principle contained in the Succession Duty Act.

Senator Bouffard will be here this evening, and he will urge energetically that consideration be given to the family at all levels of Government. The family should be recognized, because it is not only the basis of the state, but is the basis of our society. I would prefer that Senator Bouffard argued this question himself.

The CHAIRMAN: If we adjourn until 8 o'clock, I take it Senator Bouffard will be here to speak to that point.

One further matter still outstanding is that of an optional value date. What the committee may choose to do in that respect, I do not know.

—Whereupon the committee adjourned until 8 p.m.

At 8 p.m. the meeting was resumed.

The CHAIRMAN: Will the meeting come to order? The first item is an item that we stood this morning for redrafting: that is the amendment to section 45, subsection (4) dealing with the copy of records, etcetera, and the question that we wanted included this morning was to ensure that if no copies were being made by the department of the records that had been seized, the persons from whom they had been seized would have access to the records and the right to inspect them. The amendment now prepared reads as follows:

"That Bill C-37, an Act respecting the Taxation of Estates, be amended by striking out line 22 on page 36 thereof and substituting the following:

> 'to be made one or more copies thereof and shall, upon request by the person from whom the original document was seized or by whom it was produced, in any case where a copy thereof has been made pursuant to this section, send a copy thereof to such person or, if no copy thereof has been made pursuant to this section, allow such person at any reasonable time to have access to the document so seized or produced, and a document' . . ."

Senator HAIG: That is O.K.

The CHAIRMAN: Then this amendment is moved by Senator Croll, seconded by Senator Haig. Those in favour? Contrary, if any? Carried.

We are gradually reducing the number that we have to look at. But we have several sections left. There is one that we got almost to the stage of voting on this morning; that was the amendment proposed by Senator Leonard to section 26 of the bill. Section 26 is the section that says that in determining value of any property no allowance or deduction shall be made for or on account of income tax. The suggested words of the amendment were: "Except where a superannuation or pension benefit is taxable under the Income Tax Act." The effect of that amendment would be that, in valuing a pension benefit or superannuation benefit that is subject to income tax on the person receiving it from year to year, the valuation would proceed on the basis of fair market value, and presumably, in making fair market value, if something is what Senator Croll called the other night a "built-in tax liability", I would assume that "fair market value" would be a lesser value than if it did not have that built-in tax liability. That is the problem. Is there any further discussion on this proposed amendment?

Senator ASELTINE: The Minister said the other night words to the effect that he could not accept that amendment because of the fact that it was not

workable, in the first instance, and in the second instance that it was discriminatory, and also, I understand, that it interferes with the balance of ways and means.

The CHAIRMAN: Just to refresh you on what the Minister said, the Minister was not dealing with this amendment; the Minister was dealing with an amendment which required him to prepare a table or a formula for the determination of the income tax deductions that would be arrived at.

Senator ASELTINE: And he said that was not workable.

The CHAIRMAN: He said that was not workable. Now, under the amendment that he considered, and to which he was addressing his remarks, the proposal was that you capitalize the value of such a pension right, and having arrived at that, you make a determination of what is the income tax liability that is inherent in that. You arrive at an amount, and you deduct the second from the first. The virtue of this amendment is its greater simplicity—rather, I should say, its simplicity—as against the Minister setting up tables and trying to make calculations. The simplicity in this is that you are thrown on fair market value. In other words, you are not precluded from looking at the effect of possible income tax liability in arriving at the valuation. But the Minister does not have to set up a table. You arrive at the fair market value the best way you can. Having arrived at it, why, then, it would have to be on such a basis that it could reasonably be supported afterwards if it were challenged. So it has the virtue of simplicity in dealing with a problem which could otherwise be a very complex one.

Senator BRUNT: With the consent of the committee I would like to read this illustration. I have shown this to Mr. Linton. This is something that arose recently right in my own office and I have the exact figures. It will only take a minute to give this illustration to the committee.

The CHAIRMAN: Yes.

Senator BRUNT: John Doe died on August 1, 1958, and amongst the assets in his estate was a pension insurance policy issued by the Manufacturers Life Insurance Company in the amount of $34,282.72. The policy was purchased entirely with funds upon which no income tax was paid. It is the present intention of the Succession Duty Department to treat the entire amount payable, namely, $34,282.72, as income into the estate, and income tax will have to be paid on it. Furthermore, the Succession Duty Office proposes charging succession duty on the entire amount, namely, $34,282.72, making no allowance for the income tax which has to be paid.

This appears to be unfair since, had the deceased withdrawn the entire amount, $34,282.72, from the insurance company on the first day of July, 1958, one year prior to his death, as he was entitled to do, he would have an income tax liability in connection with that withdrawal which could be taken as a debt in the estate. In this case the effective rate for income tax is 32.172 per cent. So roughly, out of the $34,000 there is an income tax liability of something over $11,000, and nothing is taken off the pension for it.

Senator THORVALDSON: What is the total value of that estate?

Senator BRUNT: Just over $100,000.

Senator CONNOLLY (*Ottawa West*): Is that taxable all in one year?

Senator BRUNT: Yes.

Senator THORVALDSON: Was the whole tax liability on that pension alone or on the whole estate?

The CHAIRMAN: Which one, the succession duty or the income tax?

Senator THORVALDSON: I mean the succession duty liability. Was that on the whole estate?

Senator BRUNT: Oh, yes.

Senator THORVALDSON: So it wasn't only on this pension?

Senator BRUNT: No, but the income tax they are paying on this particular pension is figured at the rate of 32.172 per cent, roughly one-third. If he had taken it out a month earlier it would have been a debt against the estate.

The CHAIRMAN: No, but Senator Thorvaldson's question, as I understand it, has to do with this. The whole proceeds of the insurance were treated as being 100 per cent the value of that policy.

Senator LEONARD: What my amendment proposes in a case like this is that the true value of the pension is $23,000, approximately, instead of $34,000, as it would have been had he withdrawn the $34,000 three days before, or one month before. Thus the value of that would only have been $23,000 as the income tax liability would have come off. Income tax liability is a debt of the estate just as much as it was before his death, even though it has to be paid after his death.

Senator THORVALDSON: Of course, in some situation like that there might not be any liability at all.

Senator LEONARD: Oh, yes, there would be.

Senator CONNOLLY (*Ottawa West*): You cannot escape liability in that situation.

Senator BRUNT: If this was the only asset in the estate would there be any income tax liability? Perhaps Mr. Linton could tell us.

Mr. LINTON: There would not be a succession duty.

Senator BRUNT: No, but income tax liability?

Senator MACDONALD: No, the person would only be liable for income tax from year to year.

The CHAIRMAN: No, this was payable in a lump sum.

Senator MACDONALD: That is under the estate tax.

The CHAIRMAN: No, the proceeds of this policy were payable at once in full.

Senator LEONARD: This case happens to point up very strikingly the same situation, should it be paid in installments for a period of time or for life. This happens to be paid in one year and points the case up very blatantly.

Senator THORVALDSON: This is not a pension case at all.

Senator LEONARD: It is exactly the same situation.

Senator CONNOLLY (*Ottawa West*): It is a little better for the tax department because the income tax is collected at a very high rate. If it was distributed over the years then the rate presumably would be much less.

Senator LEONARD: If you are thrown back on the fair market value and don't have to allow for section 26, then the $11,000 would be deductible from the value.

The CHAIRMAN: Not necessarily $11,000, but some figure.

Now, if we have exhausted the discussion on this point, the idea of the adjournment was to permit the Minister to come and express his view, particularly on this point, but he was not able to attend this evening.

Senator ASELTINE: He told me that it was impossible for him to be here, but that he had fully explained the principle of this at the time he was here before. I cannot approve the amendment from a scrapbook.

The CHAIRMAN: I was saying that the Minister had indicated that while he could not be present this evening he would ask Dr. Eaton to explain the position on his behalf. Dr. Eaton is here for that purpose, and I think we should hear from him.

Dr. EATON: Well, Mr. Chairman, this is probably my last assignment here, and I am inclined to think this is the toughest one I have run into since I started in the Government service. I am supposed in effect to give you the Minister's position after his having heard, and I assure you he has heard from us, all the various objections that have come up while he was not here. We retailed this to him pretty thoroughly. I expect I am bound to say too much in some directions and too little in others. He would have said it much better, I think, but I will do my best.

There are several important clauses here that have been held over, and clauses to which objection has been taken. One is mentioned now. Generally, as I recall there are four that have come up; there is just one, section 26, where he wanted an amendment to that clause struck out.

I assure you we spent a great deal of time with this item with the Minister today. I should say bluntly he did not feel he could accept it. Perhaps later if you like we could discuss these various pros and cons, but I thought I might as well say at the outset that he has had the words before him, he has considered them and feels he could not accept them, and has authorized me to say so.

Senator Bouffard made another point the other day about the provisions here not giving sufficient recognition to the family, and he had a proposal that an estate up to $200,000 should be taxed at half rate if all was left to the immediate family. Well, that again is a question of very broad principle and, I might say, this is one of the first decisions that had to be made in preparing the new estate tax. That is one of the things we were not going to look at, what the children or what the wife got. That is where all the problems under an inheritance tax arise, and one of the main objects of this kind of tax was to get rid of that terrible problem in valuing life interest, contingencies and so on. If you are going to get back into that kind of thing you are back right into the old problems of the inheritance tax.

The women also had the suggestion that in order for the $60,000 to be deducted, that deduction should be contingent upon the wife's receiving a substantial amount of the estate. That again led right back into all the problems of the inheritance tax as distinct from the relative simplicity of an estate tax.

One of the third problems is in connection with section 15. Senator Leonard raised this. He was concerned with the potential hardship on a widow in the case of a pensioner who might not have too many other assets where she had six instalments to meet the tax liability. Again I do not want to argue that, but we have moved from four years up to six years. Also under the old law there was only an exemption of $20,000 for the wife, and now there is a $60,000 exemption. Whether this case can be argued as being generous I do not know, but that is one of the problems.

Senator Leonard suggested the 15 per cent amendment here; we had a good look at that, we mulled it over and looked at the angles in it, and again the minister was not satisfied he could handle that. Now I merely record that decision after telling you quite frankly we went into it pretty thoroughly.

The fourth point that has been raised is about optional valuation dates. Now, all of us realize there are problems here of valuation. There can be a hardship there but we have not found the answer to that, and we have worked over it a good deal. We do not pretend to have all the answers.

I mention these as four fairly important problems that you are still not satisfied with; the specific ones that we have taken to the Minister and which he says he cannot accept. And there it is.

Well now, I might perhaps add to this—and I think this is what the Minister would say if he were here—that this estate tax has received more attention, more study, more work than any other piece of legislation in the 25 years I have been here. It is not secret that this bill was in print three years ago. We had been working on it before that time. The previous Government had this bill printed in draft form. We went through it with the Honourable Walter Harris, and he intended to bring it in. It was argued pro and con; we spent hours and days, in fact weeks on it.

Then the new Government came in, and we did the same thing. I don't know that I have ever spent as much time with one minister on a bill as I have spent with the Honourable Mr. Fleming on this piece of legislation. He took two weeks, every afternoon and every evening, with a group of 12 of us who sat around with him and went over the legislation with a fine-tooth comb. He wasn't satisfied with it, as you are not satisfied. We tried to get solutions. What I am trying to say is that we have put an awful lot of time on this measure; we are not perfectionists, and we haven't got the answers to all these things.

One other point: I do not think there has been a new point brought up in any of the discussions here that was not brought up years ago. Practically all of the points raised have been in briefs; the national briefs have all been tabled in the House of Commons, but those were only part of it. We received briefs and letters from individuals; there was an enormous flow of correspondence, because this kind of legislation has been in the mill for quite a long time. We examined all these points very carefully before submitting the bill in January. So, I think I can assure you that not one point has been raised here that was not raised before the original bill was tabled. The public had looked at the bill; the minister went through all the representations that were received following the introduction of the bill in January. We did our best with it, and have made a lot of improvements and changes in it since that time.

Now these points come up again. On certain of these specific points I have to report to you that the minister has looked at them again and—I may as well be blunt about it—he has turned them down. We are scared of this last-minute improvising of legislation. We do our best; we are pretty good, but we are not that good to be able to improvise on these things at the last minute.

The CHAIRMAN: Dr. Eaton, would you call this last-minute improvising . . .?

Dr. EATON: I will take that back.

The CHAIRMAN: If these points were raised in briefs and representations through the last four years, you have had a lot of time to think about them.

Dr. EATON: Yes, a lot of time to think about them. I am referring to specific instances put to us now. Very well, I will take that all back.

The CHAIRMAN: That is rhetoric.

Dr. EATON: Nevertheless, we are afraid of improvisation; we have got into a lot of trouble at times taking things that were given to us without sufficient study. It would surprise you some of the angles that come up that we have not seen when specific proposals were put up to us.

Let me give you an example. We brought in what was a simple amendment to clause 29 this morning, by which changes were introduced regarding arm's length. We were worried about that provision. We spent a lot of time over that on the week-end; we had a lot of alternatives that we were going to try to put in, but we could not be satisfied with any of them. A lot of us were no too happy about the amendment that was brought in by the

minister; however, there it is. I merely record that as an instance where a specific proposal came in, and we had to work on it. Perhaps enough has been said on that.

I think the minister would say, and I say it on behalf of those of us who are here in his absence, that we all think this is a pretty good bill, but we don't think it is a perfect bill. From our point of view, I know the minister is not satisfied with it, and I think he told you so the other evening. There isn't such a thing as a perfect tax bill.

But certainly, there never is any finality in tax legislation. Let me take the Income Tax Act as an example. Back in 1949 we got a new act, and every year since that time there has been an amending bill with 30 to 40 sections in it. Right now you have before you an income tax bill with 43 sections amending an act that we thought was pretty good to start with. My point is, there is no finality to these laws. If there is anything wrong with them, we will go to work on them now; these things you are objecting to will be in the mail and in briefs in the coming year. Starting within a month or two from now these things will start to come in. My point is that this isn't a closed operation of any kind. But we have now what we think is a good bill, much better than the previous one. I think everyone is agreed on that. We have been working on the changes, and we tend to regard this as a starting point for building up a better law; and if we can find a good answer to some of these problems—and if the minister were here he would assure you with great sincerity, that we will take all these points under consideration for further study. He will have to do it, because they will be coming in from the public from here on. This sounds as if I were pleading with you.

Senator POULIOT: Is the tax legislation drafted by the Department of Justice?

Dr. EATON: Yes sir.

Senator POULIOT: I thought so.

Dr. EATON: I do not like to be in a false position. I am not pleading with you here; I am trying to give you as near as I can what I think the minister would say if he were here; and I think I have said enough. Thank you.

Senator MACDONALD: This morning I raised a question as to whether this was the type of amendment which the Senate should make, and I started then that it bothered me, because I felt that we might be interfering in some way with the balance of ways and means. Now, we all agree, because it is set forth definitely in the British North America Act, that we cannot impose taxation. A bill imposing taxation must be introduced in the House of Commons. We are not directly proposing to impose taxation, we are not increasing taxation, and the committee which sat, I think, in 1918, decided that the Senate did have power to decrease taxation. But that committee did not decide that we had power to decrease taxation to the extent that it would interfere with the balance of ways and means. I have made a search, as far as it was within my power to do during the time that I was free—and of course I have not had too much time in the last couple of days—and I have not been able to find one case where the Senate has made an amendment in a bill which would substantially reduce the taxes which the Government would receive.

Senator POULIOT: If the Senate has not used the right it does not mean that it was deprived of it.

Senator MACDONALD: No, it does not necessarily mean that; I agree with you. I was just mentioning the fact that the Senate had never assumed the right which some of us might think we have. I think it was Sir Robert Borden

who said that if we all exercised all the right we have to the fullest extent, there would be a lot of confusion. Those were not his words, but they were something to that effect. From the remarks that were made here tonight there is no doubt this will make a substantial reduction in the moneys which the Government will receive from this taxation measure.

The CHAIRMAN: I don't think that appears from the evidence, Senator Macdonald.

Senator MACDONALD: Well, the illustration given by Senator Brunt tonight showed that it would. In that one instance alone there would be a considerable reduction.

Senator BRUNT: $11,000.

The CHAIRMAN: It would be the rate of debt on $11,000.

Senator POULIOT: When we have a conversion loan of $6½ million, what is $7 million?

Senator MACDONALD: That's right, but I should point out that if we were going to have a surplus the balance of ways and means would not be disturbed because there would be money over and above the amount we are going to receive.

The CHAIRMAN: Surely it would be just as much disturbed.

Senator MACDONALD: But in this instance we are budgeting for a deficit, and I would like to make this statement and have it on record, that I would personally take a more serious view of the actions on the part of the Senate which might disturb the balance of ways and means when a budgetary deficit is in contemplation. At the present time the Government has budgeted for a very considerable deficit. I would not be surprised if it is even larger than predicted.

The CHAIRMAN: The deficit to the taxpaying estate is important too.

Senator MACDONALD: That's right. When as under the former administration, a budgetary surplus is contemplated, a slight reduction in taxation or the conceding of a measure of relief from taxation, which would merely have the effect of reducing the surplus, would not in my view be beyond the competence of the Senate or necessarily undesirable. However, when what is budgeted for is a substantial deficit, then the reduction of taxation by this body must inevitably mean an increase in that deficit. This in turn would mean that the Government would have to borrow money at the public expense or impose additional taxes to account for the addition to the deficit. In such circumstances, it seems to me that substantial reductions in the public revenues by the Senate would mean that the Government would have to find the lost money some other way, either by borrowing it or by raising taxes. This, it seems to me, and this is my own personal opinion, is contrary to the spirit of the proposition that the balance of ways and means should not be unduly disturbed at the instance of this body.

Senator POULIOT: What author are you quoting?

Senator MACDONALD: That is my own statement.

Senator BAIRD: What would you have the Senate be, a rubber stamp?

Senator MACDONALD: Certainly not.

Senator BAIRD: I can't see what else you are making it.

Senator MACDONALD: You have not followed my argument, if that is what you say.

Senator BAIRD: Well, I can't see anything else to it.

Senator MACDONALD: Taxation legislation must be introduced in the House of Commons, but in the House of Commons no one except a member of the Government can reduce taxation if it is to disturb the balance of ways and means.

The CHAIRMAN: No, they can't in any event.

Senator EULER: They themselves disturb it almost every year and that is covered by supplementary estimates.

Senator MACDONALD: The Government does that, and that is my point. The Government must take the responsibility for it. The Government is responsible for the financing of this country. As I said the other day, we approve all Government expenditures and now they are coming along and saying they cannot have the money and we will not provide them with the money. Now we come along and say we won't provide them with the money. Well, if we don't, the only way to get it is by taxes, and the B.N.A. says the Senate cannot tax. I want to make it perfectly clear that I am expressing my own view after having given the subject very considerable study.

Senator BRUNT: On your argument, then, any change that we make to this act if the Government is doing deficit financing, cuts down on the revenue of the Government, and then we are interfering?

Senator MACDONALD: If it cuts down to a substantial extent.

Senator BAIRD: What do you mean by a substantial extent?

Senator MACDONALD: I am not prepared to say, but if it were a minor reduction.

Senator BRUNT: Well, when there is a deficit financing, even if it were a minor reduction, they would have to get that money either by imposing additional tax or by borrowing.

Senator MACDONALD: For a minor reduction it would go over to another year.

The CHAIRMAN: May I just say this, that if the question has been raised that this amendment should not be received because it has the effect of increasing taxes, I think if that were the situation the Chair would have to rule, subject to what the committee might do, that the amendment should not be received; but in my view the amendment does not provide for any increase in taxes, and therefore it is in order on that point. Now, on the second point, as to whether it unduly interferes with the balance of ways and means, I can only go on the material before the committee, as chairman, and in coming to a decision I refuse to speculate, and I say there is no evidence before this committee that would show that (1) reduction would be likely to occur overall in the revenues that this bill would produce even if this change were accepted, and therefore I am not in a position where I can say that the amendment should not be received because it will unduly interfere with the balance of ways and means. It is up to the members of the committee to decide.

Senator ASELTINE: I don't agree with that.

Senator POULIOT: Mr. Chairman, will you permit me to give an example and express my personal views?

The CHAIRMAN: Yes.

Senator POULIOT: We will have to go back to the time when there was no Parliament and the kings were supreme and pressured the people who had to pay what he asked for; it was an order. Finally there was progress and we had a certain degree of democracy, and little by little the barons succeeded in obtaining rights. Then they made a compromise and decided to impose taxation, but with the consent of the King. But they could always reduce that

taxation, and there is nothing in the B.N.A. Act that prevents any member of the House of Commons or any member of the Senate from moving a reduction in a taxation bill.

Senator MACDONALD: If it would affect the balance of ways and means, Senator Pouliot?

Senator POULIOT: What about the Governor General's warrants? Are you a member of the present Government?

Senator MACDONALD: Oh, no.

Senator POULIOT: No, I am not either.

Senator MACDONALD: Thank goodness I am not.

Senator POULIOT: And we are discussing it in an academic way. The practical point of view is that we have the right and we are not to abandon it; we have the right to reduce the taxation; it is clear as clear water.

The CHAIRMAN: Gentlemen, are you ready for the question? The question is this—

Senator THORVALDSON: Before you take that vote, Mr. Chairman, I will not vote because I am not a member of this committee.

The CHAIRMAN: Those in favour of Senator Leonard's amendment please raise your hand—(10).

Those opposed—(7).

The amendment is carried.

The next item we have was another amendment which Senator Leonard prepared.

Senator HAIG: I would suggest that you do not need to go any further, Mr. Chairman. I think you are wasting time from now on.

The CHAIRMAN: That may be your view, Senator Haig, but I have a job to do here and I have to do it.

Senator HAIG: I do not want to be misunderstood, Mr. Chairman.

The CHAIRMAN: Has anybody suggested we have been misunderstanding you?

Senator HAIG: I want to say quite candidly what is happening here tonight, that when we say to the Government you cannot collect as much money out of this as you thought you could, the Government is going to reply, we cannot accept the legislation.

The CHAIRMAN: Well, that is something we will face in the future.

Senator MACDONALD: I think we must go on. This is only one clause.

The CHAIRMAN: The next clause that stood was clause No. 15.

Senator LEONARD: This was the question of instalment payments, and Dr. Eaton has explained they have given this a good deal of study and they have not been able to find any practical way of meeting or agreeing with the amendment that I suggested. Since I have been studying this bill, and as a result of a conversation with the leader of the opposition in the Senate, there was a question that I wanted to ask Dr. Eaton, and that is whether this six year instalment payment provision is available in the case where there is a benefit passing to a successor under an estate so that the executor is liable for payment of the tax thereon. In other words is section 15 confined only to those cases where there is no benefit going to the successor through an estate?

Mr. LINTON: It is confined to cases where the successor has to pay some duty himself. He can take advantage of it in respect of the duty he has to pay himself and not in respect of any duty the executor has to pay either from the residue or on his behalf.

Senator LEONARD: That is if the tax is $5,000 on the succession under section 15, and there is a benefit going to the successor of $5,000 through the estate for which the executor is primarily liable, then the executor must pay the $5,000 and there is no right to the successor to elect to pay over a period of six years.

Mr. LINTON: That is right.

Senator LEONARD: And if the benefit is only $1,000 under the estate and the tax liability is $5,000, what happens?

Mr. LINTON: He has the right to pay on $4,000 in instalments.

Senator LEONARD: But there is no right of the executor to pay in instalments?

Mr. LINTON: That is right.

Senator LEONARD: That seems to me to create an additional hardship over and above the ones I had suggested before where the tax itself might be so heavy as to constitute an undue proportion of the annual annuity; and my previous amendment had dealt purely with the question of extending instalments of such payment. What I am going to suggest, but I am not prepared to move this myself, is that I think there ought to be some provision in section 16, which now gives the right of extension only in the case of hardship or excessive sacrifice, by adding some words that would indicate that apart from hardship and excessive sacrifice the minister in his own discretion could defer the time for payment where there is a tax on an income right or life annuity. Perhaps the department would give some consideration to that? That is the way I think any amendment, if it is to be made, should be made.

Senator MACDONALD: In this instance I am supporting the amendment of Senator Leonard. I believe it might work a great hardship to require a person in receipt of an annuity to pay the full tax from other property.

Honourable senators will notice the wording of subsection (3) at the top of page 20:

> (3) Where, in the case of any successor to any property passing on the death of a deceased, the property so passing to which he is the successor includes both
>
> (*a*) included property, and
>
> (*b*) other property,
>
> the executor of the estate of the deceased, as and when required by or pursuant to this Act to pay the part of the tax payable under this Part in respect of the death of the deceased that is applicable to the property under his control, shall, on behalf of the successor, pay the amount payable as tax under this Part pursuant to this section by the successor in respect of the property mentioned in paragraph (*b*), except that in no case shall the amount so payable by the executor on behalf of any person as the successor to any property passing on the death of the deceased exceed the value of any included property so passing to which that person is the successor.

Then, section 15(1)(*a*) reads:

> 15. (1) Notwithstanding the provisions of this Part respecting the time within which payment shall be made of any amount as tax under this Part by a person as the successor to any property passing on the death of a deceased,
>
> (*a*) where the property so passing to which that person is the successor that is not included in the property under the control of the executor of the estate of the deceased and in respect of which no amount is payable as tax under this Part pursuant to section 14 by the executor on his behalf . . .

That means, as Senator Leonard has pointed out that if there is certain property not under the control of the executor, but there is in the hands of the executor other property from which the estate tax can be paid, he is required to pay that tax from that other property.

Senator LEONARD: At once.

Senator MACDONALD: At once. It may happen that a man dies and leaves his widow a property and other assets which are not easily convertible into cash, a small sum of money and an annuity. The executor must take all the money in his hands and pay the tax on the annuity; or, if there is not enough money in the other property in the hands of the executor, the executor must have that property sold or put a charge on it to pay the tax. There is no provision under the clause which allows, in case of hardship, instalment payments, because there is other property in the hands of the executor. It seems to me that the minister should be prepared—and this won't cost the Government any money, so I am not arguing against myself—

Senator BAIRD: It won't affect the ways and means at all?

Senator MACDONALD: It won't affect the ways and means whatsoever.

I think an amendment could be made whereby in all cases of annuity the tax on it could be paid over a period of six years, instead of applying it only to cases where there are no other assets. If this clause is not amended, the result will be that in probably 99 per cent of the estates where there is an annuity the tax will have to be paid forthwith, and the clause granting the six annual payments would not amount to anything.

The CHAIRMAN: Mr. Linton, there is one question I wanted you to clarify. Section 15, which deals with instalment payments for six years, is limited to the case where a successor receives a benefit that is payable in a term of years, and he is not otherwise a beneficiary of the state. Is that right?

Mr. LINTON: Not quite, sir. He might be a beneficiary of the other part of the estate to an amount not sufficient to pay the tax, in which case he would have the benefit of instalment payments on the balance.

Senator LEONARD: Is that clear?

The CHAIRMAN: In section 15 it says—

Senator LEONARD: And in respect of which no amount is payable as tax.

Mr. LINTON: Yes. In respect of part of his annuity, tax is payable by the executor; in respect of the other part, it is not.

Senator CONNOLLY (*Ottawa West*): Because there aren't funds?

Senator LEONARD: You are dividing the property into fractions?

Mr. LINTON: Yes.

The CHAIRMAN: There is a very distinct limitation on the instalment payments provided for in section 15.

Mr. LINTON: A limitation along the lines we have just stated, yes.

The CHAIRMAN: Then in section 16 the discretion the minister has to defer is in cases of hardship, and that right to defer would apply as much in the case of an executor who has to pay estate tax as it would to a successor.

Mr. LINTON: Yes.

The CHAIRMAN: So the hardship decision and the deferment in the discretion of the minister, under section 16, has general application.

Mr. LINTON: Yes.

The CHAIRMAN: Whereas in section 16 the instalment payment has very little application.

Mr. LINTON: Yes.

Senator MACDONALD: I do not see where the hardship provision has general application. If I read the section correctly, it only has application if the payment is made by the successor.

The CHAIRMAN: No, by the executor of the estate of a deceased or by a person as the successor. You see that in the third and fourth line.

Senator MACDONALD: Yes, but there cannot be any instalment payment where it is paid by an executor.

The CHAIRMAN: I did not talk about instalment payment. I said that the right to defer payment and pay interest on a deferment, that would be on the basis that the minister has set up, exists in cases of hardship both in relation to the executor and to the successor. It is not spelled out as being an instalment, but the minister can define the method of payment.

Mr. LINTON: Under section 16.

The CHAIRMAN: Under section 16, yes.

Senator CONNOLLY *(Ottawa West)*: Even beyond the six-year period.

The CHAIRMAN: Yes, it could be beyond the six-year period. And you pay interest on it. But I was wondering, Senator Leonard, if you feel that these two sections go far enough.

Senator LEONARD: Well, unless it is the wish of the committee I am not proposing to press an amendment. I think that there is a proper case for making provision for instalment payments in the case of tax applicable to income rights in annuities. That is recognized in the one instance where the income right goes to a successor apart from an estate. But in the case of an estate there is an absolute necessity for immediate payment; and I would like to see some words in there that would give the minister and the department power to make provision for a payment of the tax over a period of time by instalments.

The CHAIRMAN: Of course there is a right of discretion in the minister to defer in the other situations.

Senator LEONARD: Only in case of hardship.

The CHAIRMAN: Yes.

Senator LEONARD: Or excessive sacrifice.

The CHAIRMAN: Yes.

Senator CONNOLLY *(Ottawa West)*: May I ask a question of the officials. Suppose you have a case where you have an executor with money or assets available for the payment of duty, and subsequent to the payment of duty he should be the recipient of an annuity and will get the annuity quite apart from any interference by the executor, under those sections, might the annuitant, successor make an arrangement to assume the payment, or must the executor pay?

Mr. LINTON: Oh, no, Mr. Chairman. If the annuitant chooses to pay to keep intact what he receives from the executor, it is quite in order. They both have the liability. If he discharges the liability then the executor is free to pass the property that the successor gets.

Senator CONNOLLY *(Ottawa West)*: In practice how would you work that with the department? Would you take security? Suppose I were the annuitant and my father left it to me, and that is all I got as a result of his death.

Mr. LINTON: If that is all you got, then the executor—

Senator CONNOLLY *(Ottawa West)*: I am sorry, that is not all I got I also got a house.

Mr. LINTON: The executor will be bound to pay the tax from the house or to borrow on the house or use the house in some way to pay the tax, unless you choose to pay the tax on the annuity yourself.

Senator CONNOLLY *(Ottawa West)*: Suppose I choose to pay it in instalments. How does the department satisfy itself that I will not squander the proceeds of the house.

Senator LEONARD: I think Mr. Linton, in an answer to me, said that he didn't have the right of election.

Mr. LINTON: I should think not. I think the right of election would not there arise because the executor has the liability to pay that.

Senator LEONARD: It has to be paid out of the house.

Senator CONNOLLY *(Ottawa West)*: Regardless of any arrangement I might care to make?

Mr. LINTON: No, you could pay the tax but I don't think you could pay it in instalments.

Senator CONNOLLY *(Ottawa West)*: So the instalment provision really means nothing.

Mr. LINTON: Not in these circumstances.

The CHAIRMAN: Isn't is right that the instalment provision is limited to cases where successors are taking one of the types of benefits you have here, and doesn't otherwise take from the estate?

Mr. LINTON: Yes, or takes from the estate an inadequate amount to pay the tax.

Senator MACDONALD: So it comes down to this. If there is enough money in the estate to pay the tax, it must be paid?

The CHAIRMAN: Yes.

Senator MACDONALD: Is there any provision there for hardship?

Mr. LINTON: Well, the hardship in section 16 will apply to these cases, as to any other, no matter what the benefit was.

The CHAIRMAN: I have no amendment before me, gentlemen. Does section 15 carry?

Senator MACDONALD: We have no amendment before us but I do hope the Government will take notice of our representations. Someone has said this is a new bill and that we cannot expect everything to be in it. Well, I hope we can expect this change in the second bill.

Section 15 agreed to.

The CHAIRMAN: The next item we had was with respect to section 9. I think Senator Brunt raised this.

Senator BRUNT: Yes. This relates entirely to situs, and the rules of situs have been changed by this section and I think it is unfair to all of the residents of the provinces of Ontario and Quebec. My feeling is that the section should be deleted. I expressed it before and I express it again, the section should be delected until the tax authorities of the three governing bodies sit down and work out an arrangement whereby the citizens of Ontario and Quebec, the two prescribed provinces, will be treated in the same manner as the citizens of all other provinces.

I am not saying for one minute that the dominion Government is not entitled to receive the tax which they get by virtue of section 9, but what I am saying is that no estate should be compelled to pay the extra tax which does arise by virtue of section 9.

The CHAIRMAN: Is there a motion before the Chair?

Senator POWER: Is there an amendment?

Senator BRUNT: Has anybody any idea how much money is involved?

Senator ASELTINE: There would be a considerable amount of money in a case of this kind.

Senator CROLL: I will move that section 9 be adopted.

The CHAIRMAN: We have a motion to approve section 9 as it stands in the bill. That is the section which establishes a provincial credit in relation to federal taxes paid on estates in Quebec and Ontario. Those in favour, please signify in the usual way.

Senator POULIOT: I am in favour of Senator Brunt's suggestion.

The CHAIRMAN: We have a motion from Senator Croll to approve the section. Now, Senator Pouliot, if you are in favour of Senator Brunt's suggestion—and he has not moved a motion yet—then you vote against the motion. I was asking if those in favour carrying section 9 would please indicate by raising their hands.

Senator WHITE: Mr. Chairman, with regard to what Senator Brunt says, if he takes away our 50 per cent in Ontario by taking it out, what are you going to have in the meantime?

The CHAIRMAN: Senator Brunt was proposing only that the subsection which deals with situs rules be taken out. Now, if you take those situs rules out you are back on the common law rules which are in force now in the province.

Senator CONNOLLY (*Ottawa West*): If Senator Croll's motion carries, then—

The CHAIRMAN: Then that is the end of section 9. I invited a motion by Senator Brunt, which he did not give me; he did not move. So Senator Croll makes a motion, it is the only motion before the chair, and I am putting it to the meeting.

Senator CONNOLLY (*Ottawa West*): But can't we have a discussion about it?

The CHAIRMAN: Oh, yes, unlimited, but I thought we had talked about it quite a lot.

Senator BRUNT: I have said all I am going to say about it very simply, and I am just trying to see that the taxpayers of the two prescribed provinces are treated in the same manner as those of all the other provinces.

Senator CONNOLLY (*Ottawa West*): If you strike out subsection 9, what will be the effect?

The CHAIRMAN: The effect will be that you are thrown back on the common law rules of situs.

Senator CONNOLLY (*Ottawa West*): Can anyone tell us if there is any substantial disturbance of the balance of ways and means?

Senator BRUNT: That is what I would like to know.

The CHAIRMAN: Can you express any views on that, Mr. Linton?

Mr. LINTON: Yes, as I understood Senator Brunt's problem the other night, it was that people who die in a taxing province with assets in a non-taxing province are likely to be cut out of their credit. The removal of subsection 8 won't change that. All that would do, as the chairman said, is to bring us back to the common law rules, but that situation would still exist. There might be a few whose credit would be a little less and some few whose credit would be a little more; but the big problem is that the credit problem is based on situs and not on the taxation imposed by the provinces. So cutting out subsection 8 would not cure that.

Senator BRUNT: What about subsection 1?

Mr. LINTON: It comes in subsection 1, yes, but if you cut out subsection 1 you cut out the credits entirely.

The CHAIRMAN: I think the simple way of dealing with this is to deal with Senator Croll's motion first. When we get that out of the way, and depending how it goes, we may have another question to discuss, but if the majority wish to support section 9 as it is, that is the end of it. Those in favour of section 9, please raise their hands, and those opposed, please raise their hands.

—Those in favour—(7)

—Those opposed—(8)

I declare section 9 carried.

Senator MACDONALD: I do not think it carried. It seems to me that those who voted against it wanted it to carry.

Senator ASELTINE: You voted for section 9 did you not Mr. Chairman?

The CHAIRMAN: I did not vote. There was a majority opposed to section 9 in the form in which it is. Is there some confusion in those who voted as to what they were voting for?

Senator CONNOLLY (*Ottawa West*): Mr. Chairman, I do not know how the arithmetic was but there may be a good deal in what Senator Brunt says about confusion arising from new rules with reference to situs. Like any of a good many other rules there has been a good deal of representation about this section but I think that the position is that while there may be confusion, and there may be continued confusion afterwards and perhaps some injustice done, yet it is hard to say at the moment. Apparently there is no possible amendment available and perhaps in that circumstances we better have a vote again.

Senator POULIOT: Mr. Chairman, Senator Croll moved the adoption and we voted against it.

The CHAIRMAN: There has been some confusion here with regard to it, and we will take the vote over.

Senator EULER: Before you do that, Mr. Chairman, if the amendment carries, if the section carries, or if the subsection carries, does that mean a discrimination against those who live in the two prescribed provinces?

The CHAIRMAN: It depends on what you define as discrimination.

Senator BRUNT: It would penalize them.

Senator CONNOLLY (*Ottawa West*): There may be some.

The CHAIRMAN: It may work out that way. If a person dies with assets in Ontario and assets in British Columbia and those assets in British Columbia are of a character that they could not be said to have their situs in Ontario, they are taxable in Ontario because the transmission of those assets is to a person in Ontario.

Senator EULER: How about the two provinces though?

The CHAIRMAN: Under this bill, if it becomes law, the 50 per cent credit on federal taxes paid would only apply in relation to property having its situs in Ontario and would not apply in relation to property outside of Ontario.

Senator EULER: Well, there is Quebec.

The CHAIRMAN: Quebec would be in the same position as Ontario. If all your assets were in the province of Quebec and Ontario the problem would not arise.

Senator MACDONALD: Mr. Chairman, we took a vote on this and the vote was that the section do not carry. I think Senator Brunt who introduced it should now produce his amendment or withdraw it.

Senator CROLL: Senator Brunt merely set forth an argument, he did not suggest an amendment, and I do not think one can be drawn, it is not his responsibility, it is the responsibility of the committee. There is a section here, and I move that the section be adopted. If the committee wants to throw out the whole section, well that is what they voted for. The Chairman suggests the committee may not have understood, and that we should have another vote.

Senator BRUNT: May I ask Mr. Thorson a question that may help to clear this up? Mr. Thorson, would it be possible to delete any part of section 9 to bring about what I would like to have done?

Mr. THORSON: Your question really is as to these various individual rules set forth in subsection 8 dealing with situs?

Senator BRUNT: That is right.

Mr. THORSON: You have suggested that in the circumstances there may be some instances where, because of the fact that provincial rules may differ, an unfair result may ensue?

Senator BRUNT: That is right.

Mr. THORSON: This would involve an examination of each of the individual situs rules. These are rules which we think in the majority of cases, applied to the country as a whole, are most fair. Unless we have particular instances of this discrimination—

Senator BRUNT: For instance, take the case of estate of $100,000 in province of Manitoba bonds, fully registered.

Mr. THORSON: That is not a question of the situs rules at all; it is a question of the principle involved in subsection 1.

Senator BRUNT: That is a question of principle?

Mr. THORSON: Yes; it is not based on the situs rules.

Senator BRUNT: I come back to my question: is it possible to delete any part of section 9 to get rid of this unfairness?

Mr. THORSON: Without committing myself as to whether there is any unfairness, I would say no.

Senator BRUNT: That disposes of it for my part.

The CHAIRMAN: In view of what several senators have said, I think we should vote again on Senator Croll's amendment.
Those in favour of section 9, please indicate—(11).
Those opposed to section 9, please indicate—(2).
The section is carried.

We have two other items, one of which is section 7 (1). Senator Power had indicated this morning some amendment he wished to propose.

Senator POWER: I have two amendments, one of them an alternative amendment. One amendment is that which I am commissioned to move by Senator Bouffard. Neither he or I are entirely satisfied with the reason given by the minister for disregarding the question of relationship in this bill. I understand from Mr. Eaton, as I understood from the minister, that in estate taxation, as a matter of principle, relationship should be set aside. The minister said:

> The second point is that we have sought in this measure to be punctilious in confining ourselves to matters clearly within federal jurisdiction. It is quite true that Parliament can legislate and pass tax measures with due regard to family relationships. But in this field, what I take is implicit in the point that has been raised, is that Parliament should use its taxing power to measure what a deceased person

has provided for his family. In other words, according to the old expression, that he should be "just" with his dependants before he is "generous" with strangers.

In giving strict observance to the exclusive jurisdiction of provinces over property and civil rights, it seemed to us that that was a matter we ought to leave to the provinces.

I am sure I speak for Senator Bouffard, as I do for myself, when I say this age-old relationship of the family is something that should be respected at all levels of Government, whether federal, provincial or any other level; and I am not prepared to acquiesce in abandoning what I think is the natural law.

Senator Bouffard's amendment—which I am sure runs contrary to the views of Senator Macdonald—is as follows:

Senator MACDONALD: Not necessarily through his "feeling" in this respect.

Senator POWER: I would propose one of my own, if this one of Senator Bouffard's does not meet with general acceptance. Senator Bouffard's is that clause 9 of this Bill be amended by adding thereto the following as subclause 9:

(9) Notwithstanding anything in this Act, there may be deducted from the tax otherwise payable under this Part upon the aggregate taxable value of the property taxable on the death of a person, if the property passes to a surviving spouse or to children of the deceased, one-half of such tax: provided that no deduction shall be made in respect of the excess over $200,000 when the aggregate taxable value of the property is $200,000 or more.

This clearly upsets the "balance of ways and means".

The CHAIRMAN: Let us deal with this. This is an amendment which it is proposed to add as subsection 9 of the present section 9, which is a deduction section, and you understand the nature and the scope, and admittedly, as Senator Power has said, it would appear to disturb the balance of ways and means.

Senator POWER: Substantially.

The CHAIRMAN: However, I think the best way to deal with it would be to take a vote.

Senator MACDONALD: Just one minute. Is this in accordance with the representations that have been made by the Canadian Federation of University Women?

The CHAIRMAN: No.

Senator MACDONALD: I understood that they wanted a partnership in connection with the whole estate of either spouse.

Senator HAIG: As to the husband, as to the wife.

Senator MACDONALD: No, if I understood their brief correctly they felt that the wife and husband should be considered in equal partnership on all property, and I think there is a lot to their representation.

The CHAIRMAN: Here is the representation, senator. The Canadian Federation of University Women say this:

One-half of a deceased married partner's estate should, if it passes to the surviving partner, be considered for tax purposes as earned by the surviving partner, and not, therefore, subject to estate taxation.

Senator Power's motion on behalf of Senator Bouffard is limited. It recognizes the 50-50 division, but it puts a ceiling on it in estates of $200,000,

so that the allocation could not exceed $100,000 that would be recognized as the wife's portion on the death of the husband, not forming part of his estate for tax purposes.

Senator MACDONALD: I can't see why they should stop at $200,000.

Senator HAIG: Make it a million!

Senator MACDONALD: I would amend it by striking out the "$200,000" if it were not that I feel it is beyond the powers of the Senate to do so. I hope some day it will be brought into effect but I feel it is the Government only that can do this, and if it isn't done it is the responsibility of the Government.

The CHAIRMAN: Are you ready for the question? Those in favour of Senator Power's amendment on behalf of Senator Bouffard, which would introduce this new allocation of the estate as between wife and husband, raise your hand. Those against? I declare the motion lost.

I understand that you have another amendment to offer, Senator Power?

Senator POWER: In order to establish in this legislation the recognition of family relationship I would move that section 7(a)(i) be amended as follows:

> After the word 'spouse' in the 27th line, add the following words, "who inherits".

That would mean the exemption of $60,000 would be given in the case of the wife inheriting but it would not be given in the case of somebody else inheriting. They would get the $40,000 exemption. This, I take it, is increasing taxation and so it does not meet with the objections raised by Senator Macdonald.

Senator MACDONALD: It increases the tax on those not included, and if we pass this we would be doing the very thing we said we could not do.

Senator POWER: The Government might save a lot of money.

Senator MACDONALD: We would be taxing to the extent of $20,000 those not included in this category.

Senator POWER: It would decrease the exemption to the extent of $20,000 with respect to all those not the spouse of the deceased.

The CHAIRMAN: Frankly, if this were an issue we could vote on freely there is no question that I would vote to support this amendment, for I spoke along these lines in the Senate. But whether I am right or wrong in my interpretation of this, it appears to me that the effect would be to increase taxation. I could be wrong and I am in the hands of the committee if I make such a ruling, but for the moment I feel impelled to make the ruling, and on that ground, refuse to accept the amendment.

Senator POWER: You would have done a darn sight better job had you refused the amendment that Senator Bouffard made.

The CHAIRMAN: Except I think it is perfectly consistent. In dealing with this amendment you are affecting the tax situation of other people whereas in dealing with the first amendment that was proposed you were just dealing with the relationship as between husband and wife. I am not so firmly set in my views that I feel that I have expressed a perfect opinion. It is just my view and the ruling is based on that.

Senator POWER: I respectfully appeal from your decision.

The CHAIRMAN: It is in the hands of the committee. Those who support the ruling of the Chair please indicate by raising their hands.

—Those in favour—14

The CHAIRMAN: The ruling is sustained.

Senator FERGUSSON: Mr. Chairman, although I am not a member of the committee, may I be heard?

The CHAIRMAN: Yes.

Senator FERGUSSON: I was not present at other meetings of this committee, and therefore was not able to express myself, although I would like the committee to know that I very strongly support the brief of the Canadian Federation of University Women. I would like to ask one or two questions of the officers. I have great admiration for the Minister and for his advisors. In the field of taxation, certainly, I am sure they know more than I could possibly ever hope to do. But I am not so sure they know quite so much about the status of women in Canada and in the rest of the world at the present time. I do not think they have quite taken that into consideration. I cannot see why they absolutely disregard all the recommendations made through the years, that a woman's estate should not be considered as joint property, when a husband and wife have worked for it, and I do not see why they refuse to give any consideration to allowing one-half of the estate to be tax free of estate tax and succession duty on the death of one of the spouses. Although I have very carefully read every bit of evidence that has been taken in this committee, I am still not convinced, and I want to say that one reason I am not is that great emphasis has been placed on the fact that this is a new principle and you cannot deviate from the principle at all, and that if you have a new principle that we are going to tax on the mass of the estate we cannot break away from that principle. I should like to point out that in the United States, under their Federal State Act, they have the provision that on the death of one of the spouses, one-half of the estate is tax free, and I do not see why we cannot adopt that principle here.

The CHAIRMAN: Mr. Linton, do you care to deal with this?

Mr. LINTON: I think this is a matter of Government policy rather than administration. I hardly think I am competent to touch on it.

The CHAIRMAN: Dr. Eaton, do you feel your instructions will perform that?

Dr. EATON: No, sir, I am afraid not. I think I can only refer a question of that sort to the minister. It is a question of very broad policy, and I do not think that I would like to argue it. I think it is entirely a question for the minister to answer; it is his responsibility for having made that decision, or if you like for not having acted on the representations sent in, and I would appreciate it if I might be excused from attempting to answer it.

Senator FERGUSSON: May I ask another question, which has to do with policy?

Dr. EATON: Yes.

Senator FERGUSSON: Is the United States Federal Estate Act based on the same principle as the present bill in Canada?

Dr. EATON: There are certain features—correct me, Mr. Linton, if I am wrong—in the U.S. law which were not part of the representations that were received from women's organizations. As I recall the representations in Canada from the organizations, half the estate—

Senator FERGUSSON: I don't think you understand my question, Dr. Eaton.

Dr. EATON: I am just working up to the point that the representations in Canada contain no reference at all to what in effect is left to the wife by the husband. This rule as I understand it in the United States only applies to the extent that the husband does in fact leave property to the wife and if he leaves up to one-half his estate to his wife then one-half may be exempt. That is correct is it not Mr. Linton?

Mr. LINTON: Yes.

Dr. EATON: And that was not a feature in Canadian representations. I do not know any special point but it was quite an important difference I think in the two types of situation.

Senator FERGUSSON: But my point I think is different. I would like to know if the United States Federal Estates Tax Act is based on collecting the money on the mass of the estate in the same way, under the same principle as you now have in the present bill before us.

Dr. EATON: That is correct; it is.

Senator FERGUSSON: That is what I wanted to know.

The CHAIRMAN: There is one item left and that is the item of an optional valuation date. The proposal was that if there was any amendment the proper place would be following section 33, which is the valuation part.

Senator BRUNT: Mr. Chairman, I have an amendment to suggest, and the reason I am suggesting it is this, that I recall an estate that devolved in the city of Toronto which had a probate value of around $4 million. The death occurred in 1929, and the realization value of that estate was under $1 million. The amendment that I am proposing will have the effect of preventing any estate from ever getting into the position of not being able to pay the amount of estate taxes because of a tremendous fall in the value of securities that are in the estate that might take place between the date of death and before they can be realized on.

The amendment reads as follows:

> "Notwithstanding any other provision in this Act for determination of value of property passing on the death of a person the value of any property disposed of within a period of three months from the date of the death of a deceased for the purpose of providing for payment of estate taxes that may be or become payable under this Act in respect of such property, shall be the amount realized in such disposition and in the circumstances aforesaid that value shall be substituted for the value at which such property has been included in the aggregate net value of the property passing on the death of a deceased and the estate tax shall be revised accordingly."

The CHAIRMAN: The effect of that Senator Brunt is that if the property in question which is disposed of within three months after date either increases in price or decreases in price—

Senator BRUNT: It works both ways.

The CHAIRMAN: —it is the sale price that is the value for estate tax purposes.

Senator BRUNT: Only if the sale takes place for the purpose of paying the tax.

The CHAIRMAN: Are you moving this as a new clause 33?

Senator MCLEAN: The way the act reads now makes it an impossible situation, because if you take the listed price of a great many stocks and bonds at the time the deceased died they cannot be sold at that price because the executor or nobody else can do anything about selling them. It means that if you wanted to dispose of them you would have to sell them short. For instance, in the province of New Brunswick it would take at least two months to get through Probate Court, to get the approval of the judges to sell the assets, to give the power to the executor to act.

Senator BRUNT: I am not asking for this change in valuation if the executor is always in the position that he can pay the tax without realizing on

the securities; it is just where he has to go out and realize on securities to pay the estate tax. That is something that has to be paid, and I think there should be some protection for the estate.

The CHAIRMAN: Any comment on that, Dr. Eaton?

Dr. EATON: I don't know anything about valuation.

Mr. LINTON: You have the difficulty of establishing what his motives were. Suppose he sold twice as much property as was required for the estate tax, which was for that purpose and which was for some other purpose? If he held, say, 1,000 shares of a stock and sold 200 of it at 2 or 3 points below the market at death, then you would be valuing the same stock at two prices. It seems to me the matter has practical difficulty on those terms.

Senator BRUNT: You see the other point of view, the difficulty the executor may be placed in?

Mr. LINTON: Yes.

Senator BRUNT: He might get to the point where the assets in the estate would not be sufficient to pay the duty.

Senator HAIG: But Mr. Chairman, take the case of the man who died on the first of November, 1929, and who owned a stock in the Winnipeg Electric Company. That stock on that date was selling at $2 a share, but on the first of July, 1929, he could have sold it for $100 a share. But his mortgages on real estate in Winnipeg were worth 100 cents on the dollar on the first of July, and they were still worth that on the first of November. The tendency would be for the executor to dispose of those things which had gone wrong and hold on to the things that are doing all right. You would be in that difficulty all through.

The CHAIRMAN: You would be cutting your losses.

Senator HAIG: Another illustration is that of Trans-Mountain Pipe Line, which six months ago was $147 a share, and is today $57. A lot of jackasses—and I was one of them—did not know enough to sell it at $147. If I were to die tomorrow my beneficiaries would ask, "Why didn't Dad sell that stock when it was $145?"

Senator BRUNT: I would like to ask the honourable senator how the duty would ever be paid on an estate which consisted of 10,000 shares of Westcoast Transmission or Trans-Mountain, on which the value dropped, how would the estate tax ever be paid on it?

The CHAIRMAN: You couldn't pay it.

Senator BRUNT: You would turn the entire assets over to the authorities and it still wouldn't satisfy the duty.

Senator CROLL: But why talk in the abstract? There isn't a case in history of that—

The CHAIRMAN: Yes, there is.

Senator CROLL: Someone will correct me if I am wrong. They have rumoured that there was such a case where the estate was not able to pay the tax, but there isn't one.

Senator BRUNT: There would have been hundreds of estates, had there been a dominion succession duty in 1929.

Senator CROLL: But I am living in 1958. We have been paying succession duty for some years, and somehow or other they have been able to work it out. I can't bring any tears to my eyes for the estate with $4 million; when you get into that class, somehow they have been able to pay their share.

But the little fellow—

The CHAIRMAN: You have your own point of view on discrimination.

Senator CROLL: It is not discrimination, it is common sense.

Senator BRUNT: Would it be possible to include in this act a clause that the estate tax would never exceed the realizable value of the estate?

Senator POULIOT: May I ask a question of Mr. Eaton? What is the minimum and what is the maximum expected from this bill?

Dr. EATON: It appears, that this legislation will not be in effect and therefore will not give any revenue at all probably in the current year. So it has not been a subject of estimates of revenues per se as a current measure. What the minister did calculate and give an estimate for, was that when this legislation got in full swing, was proclaimed and had been in force long enough for the yield of this new tax to start flowing, the yield on an annual basis would be about $7 million less than the yield of the law currently in force.

Senator MACDONALD: How much was that?

Mr. SMITH: $65 million to $70 million.

Dr. EATON: The forecast for this year was $65 million, which would be the yield from the current succession duty law.

Senator POULIOT: This would apply only to the estates of those who would die after it becomes law?

Dr. EATON: That is right. And then there is a period before the money starts flowing in after the death; and I think it was anticipated that there would be no revenue from the estate tax bill in the the current fiscal year.

Senator POULIOT: People will have to die before the department gets money.

The CHAIRMAN: Are you ready for the question?

Senator MACDONALD: I want to get the statement that was made by Dr. Eaton. Did he say it is not expected there would be any money during the current fiscal year from this estates tax bill?

Dr. EATON: Yes.

The CHAIRMAN: So there will be no balance of ways and means.

Senator MACDONALD: Anything we do in this bill could not affect balance of ways and means.

The CHAIRMAN: That is right. Are you ready for the question?

Senator CONNOLLY (*Ottawa West*): I would like to say this about the matter Senator Brunt has raised. I think the problem he has posed is a real problem for some people. I don't know if the amendment he suggests is going to really solve the problem. But I do say this, that we have discussed earlier alternative dates for valuation—three months, six months, a year. Apparently the Americans do it a year after death, as well as at the date of death; from which I understand from some of the material I have read they do not find that in the long run they lose very much in the way of revenue. I think myself it would be a better way to meet the problem that Senator Brunt raised.

The CHAIRMAN: Except that in the American system there is the additional provision that, if there is any sale in the year, the valuation is the realization on the sale.

Senator CONNOLLY (*Ottawa West*): Quite so. What I would suggest is this. I would not think this amendment would carry—I may be wrong—but I would hope that within a year the department might give study particularly to the American experience and what the effect on the revenue would be, of establishing alternate dates for valuation, considering also that other suggestion that was made by the chairman.

The CHAIRMAN: Are you ready for the motion? Senator Brunt has moved that a section be added as section 33-A dealing with this question of the value for estate tax purposes in the event of the sale of any assets within three months from the date of death, for the purpose of or to provide the estate tax money—that the value shall be what is realized rather than the value at the date of death. That works both ways, you understand. It may be up or down. Those in favour of Senator Brunt's amendment please indicate. Those opposed? I declare the motion lost.

We have disposed of all the sections which have been stood. Is it the pleasure of the committee that I report the bill with the amendments that have been made? Those in favour? Those opposed? I declare the motion carried and I will report the bill as amended.

The committee thereupon adjourned.